

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

HISER JOHNSTON, JR., et al.,

Case No. 2:21-cv-00490-APG-NJK

Plaintiffs

ORDER

V.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, et al.,

Defendants

This civil rights action was initiated by plaintiffs Hiser Johnston, Jr. and Kathy Prestwich

10 based on the death of Hiser Johnston III while he was in custody at Clark County Detention Center.

11 ECF No. 2, 6-7. I will not screen this case because screening is not authorized by 28 U.S.C.

12 | § 1915A(a) or 28 U.S.C. § 1915(e)(2).

A federal court must conduct a preliminary screening in any case in which a prisoner,

14 including a pretrial detainee, brings an action seeking redress from a governmental entity or

¹⁵ officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). Although this case was

¹⁶|| brought based on Hiser Johnston III's death while in custody, the case was brought by Hiser

17||Johnston, Jr. and Kathy Prestwich, who are not prisoners. As such, a screening order is not

18 || authorized by 28 U.S.C. § 1915A(a).

Nor does the screening provision of § 1915(e)(2) apply to this case. Under that statute,

²⁰|| the court is authorized to screen a case when the plaintiff is proceeding in forma pauperis. See 28

²¹ U.S.C. § 1915(e)(2); *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (holding that

²² “§ 1915(e) applies to all in forma pauperis complaints, not just those filed by prisoners”).

1 However, in this case the filing fee was paid by the defendants when they removed the case from
2 state court and, therefore, the plaintiffs are not proceeding *in forma pauperis*. ECF No. 1.

3 Accordingly, I do not have authorization to screen the complaint. This case will proceed
4 on the normal litigation track as guided by the Federal Rules of Civil Procedure.

5 I therefore order that the Court will not issue a screening order in this case.

6 I further order that this case shall proceed on the normal litigation track as guided by the
7 Federal Rules of Civil Procedure.

8 DATED THIS 31st day of March 2021.



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10 UNITED STATES DISTRICT JUDGE
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